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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31.08.2021

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Cr1.RC(MD)No.474 of 2021

and

Cr1.MP(MD)No.5028 of 2021

Anbuselvam : Petitioner/Accused

Vs.

1.The Revenue Divisional Officer,
Collectorate,
Dindigul District.

2.The II Class Executive Magistrate-Cum-
Revenue Tahsildar,
Nilakkottai Taluk,
Dindigul District.

3.The Inspector of Police,
Batlagundu Police Station,
Batlagundu,
Dindigul District.

: Respondents/ Complainants

Prayer: Criminal Revision filed under section 397 and 401 of the Code of the Criminal Procedure, against the impugned order in MC No.23 of 2021/A5, Dated 07.07.2021 on the file of the II Class Executive Magistrate-Cum-Revenue Tahsildar, Nilakkottai Taluk, Dindigul District.

For Petitioner : Mr.K.Pandiarajan

For Respondents : Mr.RMS.Sethuraman

Counsel for State Government
(Criminal side)

O R D E R

This Criminal Revision is filed against the impugned order in MC No.23 of 2021/A5, Dated 07.07.2021 passed by the 2nd respondent/Executive Magistrate-cum-Revenue Tahsildar, Nilakkottai Taluk, Dindigul District.

2.It is seen from the records that there is an allegation against the petitioner that he was indulged in sand theft activities and in this regard, a case in Crime No.798 of 2020 was registered by the 3rd respondent police under sections 353 and 3(1) of TNPPDL Act r/w 21(1) of Mines and Minerals Act. Subsequently, the 2nd respondent, by invoking his power under section 110 of the Criminal Procedure Code, warned the petitioner not to indulge in



such sand theft cases and consequent to that, the petitioner has executed a bond to maintain good behaviour for a period six months. In the meanwhile, on 23.06.2021, a case in Crime No.871 of 2021 was registered as against the petitioner for the offence under sections 379, 353, 506(i) IPC r/w 21(1) of Mines and Minerals Act. The petitioner was summoned to appear on 07.07.2021 before the 2nd respondent and on that day, he appeared and gave his explanation denying the allegations made against him. However, the impugned order came to be passed on 07.07.2021. Aggrieved over the same, the petitioner is before this court by way of filing this criminal revision.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. Even though so many grounds were raised in the grounds of revision, it is mainly contended by the learned counsel appearing for the petitioner/accused that before passing the impugned order by the 2nd respondent, no reasonable opportunity was given to the petitioner to defend his case and prays that the impugned order passed by the 2nd respondent is liable to be set aside. In support of his contention, the learned counsel appearing for the petitioner relied upon the decisions of this court made in CrI.RC No.505 of 2017, dated 05.07.2017 (Selvam @ Selvaraj Vs. The Executive Magistrate-cum-Deputy Commission of Police, (Law and Order, Crime and Traffic), Tiruppur City and another) and in CrI.RC(MD)No.280- of 2021, dated 30.04.2021 (Kali Kumar Vs. The Sub Divisional Magistrate-cum-Revenue Divisional Officer, Paramakudi, Ramanathapuram District and two others).

5. On the other hand, on the side of the respondents, it is argued that the 2nd respondent passed the order only after giving reasonable opportunity to the petitioner and prays for dismissal of the criminal revision.

6. In this case, on 21.06.2020, the petitioner/accused was arrested in connection with a case in Crime No.798 of 2020 for the offence under section 353 IPC and 3(1) of TNPPDL Act r/w 21(1) of Mines and Minerals Act. Then on 05.03.2021, the petitioner/accused executed a bond for 6 months for having good behaviour under section 110 of Cr.P.C. But however, before the expiry of the bond period, another case in Crime No.871 of 2021 was foisted against the petitioner by way of implicating him on 23.06.2021.

7. The contention of the petitioner/accused is that no proper enquiry was conducted before passing the final order. But on perusal of the records, it reveals that one witness was examined and 4 exhibits were marked. The 2nd respondent, in his contention, states that the witness was examined in chief and the counsel for the petitioner has not chosen to cross examine the witness. Hence, it reveals that even though reasonable



opportunity was given to cross examine the witness, the petitioner has not chosen to cross examine the witness. Hence, the argument put forth on the side of the petitioner/accused stating that before passing the impugned order, no reasonable was given to the petitioner is not at all acceptable.

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8. Further, on perusal of the impugned order passed by the 2nd respondent, it reveals that he passed the impugned order only after conducting proper enquiry and perusing relevant records. Further, a criminal case was registered as against the petitioner before the expiry of the bond period. Also further perusal of the records, it reveals that the petitioner had the habit of committing theft of sand. Hence, this court finds that the 2nd respondent, after proper appreciation of the materials available on record, has passed the impugned order, which according to this court, is correct.

9. In view that, this Criminal Revision fails and the same is dismissed. Consequently, connected Miscellaneous Petition is closed .

Sd/-

Assistant Registrar (CS III)

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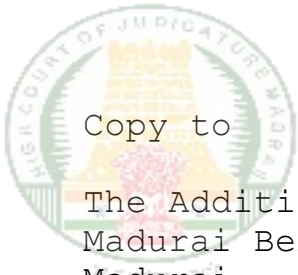
Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1. The Revenue Divisional Officer,
Collectorate, Dindigul District.
2. The II Class Executive Magistrate-Cum-
Revenue Tahsildar,
Nilakkottai Taluk, Dindigul District.
3. The Inspector of Police,
Batlagundu Police Station,
Batlagundu,
Dindigul District



Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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31.08.2021

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SB(15.09.2021) 4P 5C